

The Role of Special and Differential Treatment for Developing Countries in GATT and the World Trade Organization

Constantine Michalopoulos

Weaknesses in the institutional capacity of many developing countries provide a rationale for continuing special and differential treatment under the World Trade Organization (WTO), but the benefits should be targeted only to low-income developing countries and those that need help becoming integrated with the international trading system. An effective system of graduation should be put in place for higher-income developing countries.



Summary findings

Michalopoulos analyzes how changes in thinking about the role trade plays in economic development have been reflected in provisions affecting developing countries in the GATT and the WTO. He focuses on the provisions calling for the special and differential treatment of developing countries.

The WTO's special and differential treatment has been extended to include measures of technical assistance and extended transition periods to enable countries to meet their commitments in new areas agreed on in the Uruguay Round of negotiations.

At the same time, many WTO provisions encourage industrial countries to give developing countries preferential treatment through a variety of measures, none of them legally enforceable.

Michalopoulos concludes that weaknesses in the institutional capacity of many developing countries provide a conceptual basis for continuing special and differential treatment in the WTO, but that the benefits should be targeted only to low-income developing countries and those that need help becoming integrated

with the international trading system. In addition, an effective system of graduation should be put in place for higher-income developing countries.

Developing countries find it politically easier to argue that all should be treated the same, except for least developed countries, although their capacities and need for assistance differ vastly. Industrial countries are expected to provide special and differential treatment, but in practice their commitments on market access, preferential treatment, and technical assistance are not enforceable. Leaving it up to the industrial countries to decide which developing countries get preferential treatment invites extraneous considerations in determining who gets how much special treatment. Unless higher-income developing countries accept some type of graduated differentiation in their treatment (beyond that granted the least developed countries), there is little prospect of implementing meaningful, legally enforceable special and differential treatment favoring all developing countries under the WTO.

This paper—a product of Trade, Development Research Group—is part of a larger effort in the group to identify the issues and challenges for better integration of developing countries into the world trading system. Copies of the paper are available free from the World Bank, 1818 H Street NW, Washington, DC 20433. Please contact Lili Tabada, room MC3-333, telephone 202-473-6896, fax 202-522-1159, email address ltabada@worldbank.org. Policy Research Working Papers are also posted on the Web at www.worldbank.org/research/workingpapers. The author may be contacted at cmichalopoulos@worldbank.org. July 2000. (41 pages)

The Policy Research Working Paper Series disseminates the findings of work in progress to encourage the exchange of ideas about development issues. An objective of the series is to get the findings out quickly, even if the presentations are less than fully polished. The papers carry the names of the authors and should be cited accordingly. The findings, interpretations, and conclusions expressed in this paper are entirely those of the authors. They do not necessarily represent the view of the World Bank, its Executive Directors, or the countries they represent.

THE ROLE OF SPECIAL AND DIFFERENTIAL TREATMENT FOR DEVELOPING COUNTRIES IN GATT AND THE WORLD TRADE ORGANIZATION

Constantine Michalopoulos*

***The author is Senior Economic Advisor at the World Bank. Views expressed in this paper are solely those of the author and should not be attributed in any way to the World Bank. The author wishes to thank Amar Breckenridge and Peter Tulloch of the WTO for contributing to the analysis of the section dealing with the developing countries and the GATT and Sam Laird of the WTO, Otto Gennep of the Netherlands Delegation to the WTO, and Will Martin of the World Bank for helpful comments on earlier drafts of this paper.**

I. Introduction

In the last fifty years, the rules affecting developing country participation in the multilateral trade system have evolved, as has the thinking about the nature of trade policies appropriate for development. This paper reviews how concerns about development have been addressed within the GATT and subsequently the WTO. Its objective is to trace the evolution of the principles of participation of the developing countries in the GATT, and later the WTO, and to link this evolution to the changing consensus on the international trade policies that may be conducive to development. Particular attention is given to the concept of differential and more favourable treatment for developing countries (Special and Differential—or S&D) in the context of their rights and obligations in the GATT/WTO and to its changing content and emphasis over time.

Section II reviews the main principles and practices of developing country participation in the GATT from its establishment through the mid-1980's, and links them to concerns about the relationship between trade and development prevailing during this period. Section III discusses developing country participation in the Uruguay Round (UR) as well as the Round's significance for the treatment of development issues within the WTO. Sections IV-VI focus on special and differential treatment issues in favour of developing countries in general and the Least Developed Countries (LDC) in particular, the manner in which they have been addressed in the WTO and the priorities for their future implementation.

II. Principles and Practices of Developing Countries in the GATT, 1947-1986

A. Trade and Development in the Early GATT¹

When the GATT was established in 1947, 11 of the original 23 contracting parties would have been considered developing countries² —although at the time, there was no formal recognition of such a group, nor were there any special provisions or exceptions in the agreement that covered their rights or obligations. Indeed, the fundamental principle of the original agreement was that the rights and obligations applied uniformly to all contracting parties. The preamble to the agreement stressed the importance of substantially reducing discriminatory treatment and emphasised reciprocal and mutually advantageous arrangements (GATT, 1948). No principles applying specifically to developing countries existed in the GATT at the time of its inception. However, the draft charter of the International Trade Organisation (ITO), which was never ratified, contained a provision under which contracting parties could use protective measures for the establishment, development or reconstruction of particular industries or branches of agriculture contrary to their obligations, provided they obtained the permission of the other contracting parties.³

Today developing countries probably account for over two thirds of the 135 Members of the World Trade Organisation; and the WTO agreements contain a very extensive set of provisions addressing the rights and obligations of developing and least developed countries. Despite these extensive references, there is still no official definition of what constitutes a “developing country”. Rather, countries use the designation on the basis of self selection. As a consequence, Singapore with a per capita income of \$32,810 in 1997 and Ghana with a per capita income of \$390 (World Bank, 1999b) are both supposed to benefit from the same provisions. On the other hand, there is a UN designated official list of 48 Least Developed Countries (LDCs) of which 29 are currently members of the WTO.

While the original GATT contained no explicit provisions regarding developing countries, soon thereafter developing countries started to raise concerns and identify special challenges that they faced in international trade. The starting point of their concerns was that sustainable increases in income and output could only be brought about through increased industrialisation. In most countries there was a

¹ This section of the paper draws in part on material from 'Developing Countries and the Multilateral Trading System: Past and Present', background Note by the WTO Development Division prepared for the High Level Symposium on Trade Development, Geneva, March 17-18, 1999 and information prepared for that paper by Amar Breckenridge.

² These were Brazil, Burma, Ceylon, Chile, China, Cuba, India, Lebanon, Pakistan, Rhodesia and Syria.

consensus that liberal trade policies would not promote industrialisation and development because of the then prevailing patterns of international specialisation: developing countries tended to specialise in raw materials and primary commodity exports, which were characterised by low price and income elasticities of demand as well as considerable price volatility; while they were dependent on imports for manufactures, especially capital goods and intermediate inputs needed for investment and industrialisation. It was felt that liberal trade policies would stymie the development of infant industries, while the continued dependence on primary commodity and raw materials exports would result in volatile export earnings and deteriorating terms of trade (Prebisch, 1950; Singer, 1950). Moreover, it was thought that the development process tended to be inherently associated with balance of payments difficulties which could be addressed in the short term through trade controls. The trade strategy that emerged from this thinking and which was practised by most developing countries at the time emphasised three main strands:

- the promotion of industrialisation through import substitution behind protective tariff and non tariff barriers;
- the promotion of exports of manufactures aimed at diversifying the export structure in part through export subsidies, perceived as necessary to offset advantages of established developed country producers;
- the use of trade controls in response to actual or potential balance-of-payments difficulties.

The trade strategies pursued by developing countries during this early period gave rise to requests for changes in the multilateral trading system in four main areas: (i) improved market access for developing country exports of manufactures to developed markets, through the provision of trade preferences, in order to overcome the inherent disadvantages developing countries were facing in breaking into these markets; (ii) non reciprocity, or less than full reciprocity, in trade relations between developing countries and developed countries, in order to permit developing countries to maintain protection that was deemed necessary to promote development; and (iii) flexibility in the application by developing country members of GATT, and later WTO, disciplines, for the same reason; (iv) stabilisation of world commodity markets.

³ This provision was introduced as an amendment to the GATT in 1948.

B. The GATT and Developing Countries, 1954-1986

The manner in which the international community sought to accommodate the specific concerns of developing countries in the period between the early 1950s and the 1980s was heavily influenced by the consensus prevailing at the time regarding the type of trade strategy best suited to meeting development objectives. Throughout this period, developing countries sought to emphasise the uniqueness of their development problems and challenges and the need to be treated differently and more favourably in the GATT, in part by being permitted not to liberalise their own trade and in part by being extended preferential access to developed country markets.

The 1954-55 GATT review session was the first occasion on which provisions were adopted to address the needs of developing countries as a group within the GATT. Three main provisions were agreed, two of them relating to Article XVIII. Reflecting the argument that developing country members would face balance-of-payments instability over an extended period of time, Article XVIII (B) was revised to include a specific provision to allow countries at 'an early stage of their development' to adopt quantitative restrictions on imports whenever monetary reserves were deemed to be inadequate in terms of the country's long term development strategy.⁴ Article XVIII (C) was revised to allow for the imposition of trade restrictions (both tariffs and quantitative restrictions) to support infant industries with a view to raising living standards. And a provision granting the right of veto to certain affected contracting parties was deleted, thus making the imposition of quantitative restrictions easier (GATT, 1954).

Commodity issues were first addressed in the GATT as early as 1956 when the Contracting Parties (CP) adopted a joint resolution on Particular Difficulties Connected with Trade in Primary Commodities. Characteristically for these early attempts to cope with what would turn out to be a very thorny problem, the resolution called for an annual review of trends and developments in commodity trade and the convening of an inter-governmental meeting, if it was felt that 'international joint action' would usefully contribute to the solution of the problem. In 1958, the Haberler report – of an expert panel appointed by the 1957 GATT Ministerial—concluded, in quaint and guarded language, that 'there is some substance in the feeling of disquiet among primary producing countries that the present rules and conventions about commercial policies are relatively unfavourable to them.' The report went on to recommend: (a) stabilisation programs to address commodity price fluctuations through buffers stocks, and (b) reductions

⁴The GATT *Report of the Review Working Party on Quantitative Restrictions* (L/332/Rev), 1955, argued that the safeguard provisions of Article XII, paras 1 and 2, which allowed for quantitative restrictions on imports in

in developed countries' internal taxes on primary products such as coffee, tea and tobacco which restrained consumption and import demand (GATT, 1958).

In 1961 the GATT adopted another declaration on the 'Promotion of Trade of Less developed Countries,' which *inter alia* called for preferences in market access for developing countries not covered by the preferential tariff systems (such as the Commonwealth preferences) or by preferences in customs unions or free trade areas which were subsequently established. This was the first mention in the GATT of what would later on become the Generalised System of Preferences (GSP) for developing countries.

Subsequently, in 1964, the GATT adopted a specific legal framework within which the concerns of developing countries could be addressed: Part IV, dealing specifically with Trade and Development and containing three new Articles, XXXVI to XXXVIII. Article XXXVI states that contracting parties are to provide 'in the largest possible measure more favourable and acceptable market access conditions for products of export interest to developing countries, notably primary products and processed or manufactured products. Paragraph 8 of the Article states the principle of less-than-full reciprocity by specifying that developing country members 'should not be expected' to make contributions which are inconsistent with their level of development in the process of trade negotiations⁵. Article XXXVII calls for the 'highest priority' to be given to the elimination of restrictions which 'differentiate unreasonably' between primary and processed products, and requires contracting parties to take full account of the impact of trade policy instruments permitted by the agreement on developing country CP. Article XXXVIII calls for joint action of contracting parties through international arrangements with a view to improving market access for products of export interest to developing countries. The Committee on Trade and Development was established, with a mandate to review the application of Part IV provisions, carry out or arrange any consultations required in the application of Part IV provisions, and consider extensions and modifications to Part IV suggested by CP with a view to furthering the objectives of trade and development.

A pattern appears to have evolved during these early years: the CP of GATT accommodated developing country desires not to liberalise their import regimes partly on infant industry grounds, partly for balance of payments reasons; but regarding questions of improved access to developed country

response to an imminent threat of a decline in monetary reserves, were not adequate in the case of developing country members, for whom insufficiency in reserves was deemed to be a more chronic problem.

⁵ The Decision on Tropical Products approved the objective of duty free access for Tropical Products in developed country markets (GATT, 1964). Article XXXVI stopped short of extending the total non reciprocity affirmed in this Decision to other aspects of trade between developed and developing country Members.

markets as well as commodity price stabilisation, the GATT refrained from taking action or making legally binding commitments. For example, none of the provisions of Part IV legally bound developed countries to undertake specific actions in favour of developing country CP. And the Trade and Development Committee was then, and still is, primarily a forum to discuss developing country issues but not to negotiate legal commitments in their favour. During this period, many developing countries were not CP of the GATT, and those that were, participated minimally in its deliberations.

Partly because developing countries felt that their trade concerns were not being effectively addressed in the GATT, they lobbied for and succeeded in the establishment of a separate organisation to deal explicitly with problems of trade and development. This organisation, the United Nations Conference on Trade and development (UNCTAD) came into being in 1964, and became the main institution through which developing countries tried to pursue their international trade agenda. during this period. The establishment of a system of preferences for developing country exports of manufactures in developed country markets and stabilisation of commodity trade were important topics on the Agenda of the new institution over the decades of the 1960's and 1970's.

In 1968 the developing countries succeeded in establishing a Generalised System of Preferences (GSP) under the auspices of UNCTAD. The system was established on a voluntary basis by the developed countries—meaning they were not legally bound under the GATT to maintain it; but a GATT waiver from MFN obligations was granted in 1971, initially for a period of ten years (GATT, 1972), along with another waiver allowing developing country CP to grant preferences amongst themselves.

While pursuing the GSP, developing countries were at the same time benefiting from significant gains in market access that were the product of tariff reductions implemented on an MFN basis for all GATT CP, leading in effect to the creation of two 'tracks' along which market access was extended. The stability and predictability of market access resulting from the practice of binding tariffs in the GATT was a further gain: in general, developed countries' tariff bindings throughout the history of the GATT and the WTO have corresponded to the rates actually applied.

Both the Kennedy Round of negotiations, which ended in 1967, and the Tokyo Round, which ended in 1979, resulted in cuts on tariffs on industrial goods on the basis of an agreed formula.⁶ However, the average reduction in tariffs following each round was less favourable to developing countries than

developed countries: 26 per cent, compared to an average reduction of 36 per cent on goods of export interest to developed countries after the Kennedy Round (UNCTAD, 1968) and 26 per cent compared to 33 per cent after the Tokyo Round (GATT, 1979). This was because many products of export interest to them were either exempted from formula cuts or subject to lower than formula cuts. On the other hand, a number of developed countries extended to developing countries non-reciprocal reductions in duties on tropical products.

The relatively less favourable outcome of the two Rounds for the developing countries was in part attributable to the limited active participation by them in the actual GATT process of negotiating concessions. (Hudec, 1987, Kemper, 1980). The basic formula having been agreed, developed countries then negotiated exceptions to the cuts specified by the formula amongst themselves. Final concessions were then extended to all members by virtue of the MFN provisions of the GATT. While developed countries did consider developing countries' demands relating to products of export interest, these demands tended to be either met or rejected, without substantial further negotiation.

In the Kennedy and Tokyo Rounds, developing countries placed at least as much emphasis on discussing the extent to and the manner in which they should undertake the rights and obligations of the multilateral trading system, as on the negotiation of specific concessions and commitments. The principal result of these 'Framework Discussions' of the Tokyo Round was the Enabling Clause of 1979. The Clause established the principle of differential and more favourable treatment, reciprocity and fuller participation of developing countries (GATT, 1980). It provided for: (i) the preferential market access of developing countries to developed country markets on a non reciprocal, non discriminatory basis; (ii) 'more favourable' treatment for developing countries in other GATT rules dealing with non-tariff barriers (iii) the introduction of preferential trade regimes between developing countries; (iv) and the special treatment of least developed countries in the context of specific measures for developing countries.

The establishment of the Enabling Clause thus gave a stronger legal basis for the special and differential treatment of developing countries within the rules of the multilateral trading system. While the Clause gave formal embodiment to the concept of special and differential treatment, it continued to do so in discretionary and permissive, rather than legally binding terms.

⁶ The formula for the Kennedy Round required a cut of 50 per cent on tariffs on industrial goods. The so called 'Swiss' formula for the Tokyo Round reduced tariffs to a level z , where $z = 14x/(x+14)$, where x is the pre-round tariff; it thereby generated greater reductions in higher tariffs than lower ones.

In terms of concrete measures in favour of developing countries, the Enabling Clause transformed the 10-year waivers for the GSP and for trade preferences among developing countries into permanent waivers. In this regard, the Clause did not create any new legally binding obligations for developed country Members: it made possible the introduction of preferential and non reciprocal market access schemes, with the extent of preferences and the level of reciprocity left to the discretion of each country that extended them. In bringing together the key elements of preferential market access, non reciprocity and flexibility in the implementation of rules and commitments, the Enabling Clause was a summation, rather than an extension, of the efforts made since 1954 to address the concerns of developing countries within the multilateral trading system.

The permissiveness of S&D was also reflected in the non-participation of developing countries in a number of agreements negotiated during the Tokyo Round on such matters as Export Subsidies and Countervailing, Technical Barriers to Trade, and Government Procurement. Although these agreements contained specific S&D measures for developing countries, most of them chose not to join arguing that they were invited to join them late in the negotiation process which had been conducted without their full participation (WTO, 1999) —a complaint that will be frequently repeated in later years.

As a counterweight to the provisions for special and differential treatment of the Enabling Clause and for relaxation of Article XVIII disciplines⁷, the contracting parties agreed to the principle of 'graduation'. The idea of graduation was expressed in the expectation that the capacity of developing countries to undertake negotiated conditions and to make contributions, within the framework of rights and obligations of the multilateral trading system, would increase with the improvement over time of their economic status and trade situation. This provided the formal basis for developed countries to phase out non-reciprocal preferential market access measures to CP which, over time, were deemed to have attained a sufficient level of progress (GATT, 1980, p.205). Because preferences, as permitted under the Enabling Clause, were permissive and non-binding, and because of the 'fuller participation' clause, developing countries could have no legal recourse in the GATT against such action.

Finally, following a series of negotiations in UNCTAD, the Common Fund for Commodities (CFC) was established in 1980 and went into effect in 1989. The Fund has two objectives pursued by its two Accounts. The First Account is designed to finance international buffer stocks and internationally co-

⁷ The requirement for advance warning was removed (GATT, 1980, p 209).

ordinated national stocks. The Second Account is to be used to finance measures for commodity development, as well as promote co-ordination and consultation on commodity issues.

C. Rethinking Trade and Development in the 1980's.

It could be argued that by the beginning of the 1980's developing countries had achieved their objectives in establishing international trade rules that were responsive to their perceived needs for development: (a) they had ample flexibility under the existing GATT rules in providing protection on infant industry or balance of payments grounds; (b) they did not have to liberalise their trade on a reciprocal basis in the context of multilateral trade negotiations; (c) they could support their exports through subsidies—although subject to the risk of countervailing duties; (d) they had preferential access to developed country markets under the GSP; and (e) they had a new Fund to support commodity stabilisation schemes.

Yet, all was not well in the international rules governing developing country trade. There were two sets of problems: first, access conditions for developing countries in developed country markets were far worse than one might suspect given the existence of GSP and extensive reductions in tariffs on manufactures negotiated in previous GATT Rounds; second, just as the developing countries appeared to have attained success in establishing a set of trade rules that would be beneficial to their development, the intellectual underpinnings for these rules started to be extensively questioned.

There were many serious problems regarding market access. First, while considerable reductions in tariffs on manufacturing imports to developed countries had been made, non tariff barriers continued to exist, and if anything, to increase especially on products of interest to developing countries. This was especially true regarding textiles and clothing (under the so called Multifiber Arrangement—MFA) but also other so called 'voluntary' export restraints imposed by developed countries on emerging developing country suppliers in such products as shoes, iron and steel, and non ferrous metals. Second, while tariffs had been reduced, tariff escalation was substantial, restraining developing country entry into the processed goods markets—and to that extent inhibiting their industrialisation efforts. Third, the agricultural sector remained essentially outside the GATT, permitting developed country exporters to constrain imports and subsidise exports at will including on a number of products of export interest to developing countries.

The GSP turned out less than it was touted to be at its inception. At best, it was important for some products, for some countries and for some of the time. But it was not a driving force in strengthening the integration of developing countries in the world trading system. Being a voluntary scheme, it meant that

developing country suppliers had less certainty regarding market conditions than under the contractual arrangements involving bound tariffs in the GATT. At the same time the benefits of preferences seemed to be concentrated on the more advanced developing countries which needed them the least. According to one study (Karsteny and Laird, 1987) four beneficiaries, Brazil, Hong Kong, Korea and Taiwan derived more than 50% of all GSP benefits. But, perhaps most important, a number of products, such as textiles, of great export interest to developing countries were either excluded from preferential treatment completely or severely limited. In addition, the margin of preference was eroded as a consequence of the MFN reductions in tariffs which occurred in the Tokyo Round⁸

Recourse by developed countries to 'graduating' higher income or more competitive developing countries from GSP (along with recourse on occasion to political or non-trade related graduation criteria), increased the relative importance of reciprocal liberalisation with 'bound' concessions. Over time, other preferential systems also emerged which applied to different developing country groupings in various developed country markets, such as the so called 'Lome' preferences for ACP countries in the markets for the EU which offered deeper and more 'secure' preferences than the GSP. Indeed, it appeared that developed countries saw measures such as the GSP as a substitute for thoroughgoing action to liberalise trade (Leutweiller, 1985).

At the same time serious rethinking of the trade policies appropriate for development was taking place in many developing countries. From the early seventies and throughout the decade many had started to seriously question the effectiveness of infant industry protection, supported through trade controls and foreign exchange restrictions as a vehicle for industrialisation and long term sustainable development. Various potential perils in persisting with import substitution strategies had been identified. Trade barriers designed to protect infant industries created disincentives to export, since high rates of effective protection distorted relative prices in favour of import competing production. As a result, many infant industries remained inefficient and failed to achieve export competitiveness.⁹ In cases where the provision of selective incentives was attempted, the overall trade regime often proved too complex to administer. The use of quantitative restrictions and exchange controls increased the scope for rent-seeking activities (Krueger, 1974). The inefficiency and waste implicit in some import-substitution policies led to

⁸ The trade weighted preferential margin on imports (agricultural and industrial) into the EEC, the US and Japan fell by 27.3 per cent following the completion of the Tokyo Round (UNCTAD, 1980).

⁹ There were several series of intensive studies of developing country trade regimes during this period which reached these conclusions. The two most important were a five volume effort sponsored by the OECD, whose findings are summarised in Little, Scitovsky and Scott, 1970; and a twelve volume study under the auspices of the National Bureau of Economic Research whose findings are summarised in Bhagwati, 1978 and Krueger, 1978.

increased vulnerability to external shocks, even in countries which had achieved fast rates of growth in real income in the earlier stages of import substitution. At the same time, import substitution based industrialisation policies typically discriminated against the agricultural sector, contributing to an increased incidence of rural poverty (Krueger et.al. 1988). Moreover, the use of fiscal and monetary instruments is far superior to trade and exchange control measures to address external imbalances as the former do not entail the resource misallocation costs typically associated with latter. As a consequence there seemed to be little justification for the use of trade restrictions in addressing balance-of-payments difficulties (Bhagwati, 1978).

The experience gained in the 1960's and 1970's also seemed to suggest that countries that had pursued more 'open' trade policies i.e. ones which broadly balanced incentives favouring import competing production with incentives in favour of manufacturing exports, were the ones that had experienced strong growth in both exports and per capita income. On the other hand, countries which had persisted with import substitution behind high trade barriers had broadly experienced slow growth or declines in per capita income.

While the direction of causality between trade and income growth is controversial, developing country practice starting with the 1980's leaves no doubt that a large number opted for more open trade regimes and many countries undertook autonomous trade liberalisation involving fewer trade restrictions motivated by the belief that such regimes were more conducive to the attainment of their development objectives. Many developing countries introduced stabilisation and adjustment programmes, during this period (supported by the World Bank and/ or the International Monetary Fund) which frequently involved the conversion of quantitative restrictions into tariffs, tariff reduction, the phasing out of selective export subsidies, and the liberalisation of foreign exchange markets.¹⁰

All this was done outside the GATT and involved no changes in the formal commitments of developing countries in that context. Indeed, the argument was made that the emphasis within GATT on provisions for Special and Differential treatment – as embodied, *inter alia*, in the Enabling Clause - created scope within the multilateral trading system for the implementation, and in some cases entrenchment, of development strategies with deleterious consequences. In addition it has been argued that, by allowing a great deal of flexibility in the implementation of GATT rules and commitments, the provisions for S&D

¹⁰ 'In the broad swing of the pendulum, developing countries have been shifting from severe and destructive protection to free trade fever' (Dornbush, 1992); 'The 1980's have seen the beginnings of a change of heart among developing country policy makers with regard to trade policy. The import substitution consensus of the previous decades, with its preference for high levels of tariff and non-tariff barriers, has all but evaporated' (Rodrik, 1992).

treatment may have introduced a bias in favour of protection and against exports in the formulation of commercial policy.¹¹

At the same time as developing countries were starting to take steps to liberalise trade policy in the 1980's, there was an emerging recognition of the value of their participating actively in multilateral negotiations with a view to securing market access in areas of export interest through the agreement of reciprocal commitments and concessions. This was in turn connected to the recognition that, partly as a consequence of the emphasis on non-reciprocity, the MFN tariff concessions agreed in the Kennedy and Tokyo Rounds were on the whole less favourable for products of export interest to developing countries than were concessions relating to products of interest to developed countries.

Finally, attitudes regarding the usefulness of buffer stocks and commodity agreements as instruments for commodity market stabilisation started to be questioned. Dependence on a few primary commodity exports continued to be great for many developing countries as was continued deterioration of the terms of trade of primary commodity exporters (Sapsford and Balasubramanyam 1999). But, efforts to use such agreements to reverse or slow down deterioration in terms of trade through supply management failed. By the early 1990s new, market based approaches to guard against price fluctuations started to be explored and by 1996, the economic provisions in all major commodity agreements had either lapsed or failed (ITF, 1999). While the Common Fund has used technical assistance to increase productivity and supply response of primary producing developing countries, no funds have ever been used from its First Account to support buffer stock management of commodity agreements.

Both as a consequence of the waning interest in GSP and commodity stabilisation and the emerging consensus on more liberal trade policies as being more conducive to development and the rising importance of reciprocal liberalisation as a means of attaining greater market access, the importance of GATT as an institution within which developing countries wanted to pursue trade objectives started to rise. This was manifested by the decision of a number of developing countries, especially in Latin America (e.g. Mexico) to join the GATT. It was in this setting of evolving attitudes towards trade policy and participation of developing countries in the GATT that the Uruguay Round was launched, symbolically enough, in a developing country in 1986. The Round which was to conclude eight years later brought about a fundamental restructuring of the rules guiding the international trading system as well as significant change in the role developing countries played within the system.

¹¹ See Michalopoulos, 1985.

III. The Uruguay Round and the Development Dimension of the WTO.

The Uruguay Round resulted in the multilateral trading system being greatly strengthened and deepened in ways which carry the potential for greater integration of the developing countries. This was achieved through the extension of trade rules to cover services, trade related intellectual property rights and investment measures, as well as through the establishment of a strengthened dispute settlement mechanism. One of the issues that emerged in the late 1990s however, was precisely whether this potential was being realised.

There were two aspects of the UR agreements of great potential importance to developing countries. First, the strengthening of dispute settlement mechanism through the introduction of greater certainty in the adoption of the quasi-judicial decisions of dispute settlement panels was of great potential benefit to developing countries: it offers judicial system protection against the larger and more powerful developed countries and a better chance of prevailing in a bilateral trade dispute with them than they would have outside the WTO rules. Second, several UR agreements carried the potential for significant market access improvements in areas of interest to developing countries. Specifically, market access negotiations in the Uruguay Round covered areas not previously subject to GATT disciplines, such as agriculture, and textiles and clothing which are of particular interest to developing Members. Moreover, the Agreement on Safeguards benefited developing Members' market access through the elimination of Voluntary Export Restraints, which had been significant barriers in areas such as footwear and leather products. And, of course, the UR negotiations on tariffs resulted in further reductions in tariffs on industrial imports with the average trade weighted tariff rate on such imports from developing Members declining by 34 per cent.

At the end of the UR a number of studies were undertaken which attempted to estimate through quantitative model simulations some the prospective potential net benefits from the UR agreements to developing countries. Invariably, these studies suggested large potential gains to developing countries in the aggregate, although the distribution of benefits was expected to favour countries in Latin America and East Asia, while countries in Africa seemed to benefit little if at all. In part this appeared to result from the fact that the African countries liberalised their trade less, while they could be expected to lose more as a consequence of the potential increases in prices of food imports ensuing from reduced agricultural export subsidies in developed countries. Moreover, the dynamic benefits that could be visualised as a consequence of increases in trade and incomes world-wide tended to dwarf the estimated static effects of trade liberalisation (Harrison et.al. 1996).

At the same time, developing countries by participating in the new UR Agreements in Services, Trade Related Intellectual Property Rights (TRIPS) and Trade Related Investment Measures (TRIMS), accepted rules and disciplines on policies in areas in which they had previously enjoyed complete latitude. The same was true for the new agreements on Subsidies, Technical Barriers to Trade (TBT), Customs Valuation, Sanitary and Phytosanitary Measures (SPS) all of which converted previous plurilateral agreements, in which few developing countries participated, into general developing country commitments to abide with multilaterally agreed rules, albeit within a framework of certain S&D provisions (see below). Tighter disciplines were also introduced on actions taken under Article XVIII (B) which ran counter to trade liberalisation. The Understanding encourages the use of price-based measures, extends documentation and notification requirements, and provides procedures for the phasing out of restrictions. These modifications were at least partly informed by the developments in economic policy described earlier, most notably regarding the greater effectiveness in fiscal and monetary instruments in meeting balance-of-payments shocks.

The UR also saw an evolution of developing country attitudes regarding S&D provisions. The UR agreements continued to be guided by the general S&D principles agreed in previous negotiating Rounds, which were actually extended in a number of ways. But without formally giving up on the principle of non-reciprocity, developing countries eschewed past practices and participated more actively in the exchange of reciprocal liberalisation in goods and services. In particular, as part of the agreement on agriculture they agreed to bind all their tariffs in the sector. And they also increased their share of bound industrial tariffs from 14% to 59%. The distribution of these bindings by region was quite different: developing countries in Latin America essentially bound all their tariffs, while few countries in Asia bound their whole schedule and few in Africa bound any at all (Michalopoulos 1999b). Also, the vast majority of these bindings were at levels much higher than the applied levels, leaving developing countries considerable flexibility in increasing tariffs should they decide to do so.

In other respects, special and differential provisions regarding market access through GSP were maintained. Flexibility, was also maintained e.g. by permitting developing countries certain practices in support of agriculture which were not allowed to other countries, and similarly regarding export subsidies. Moreover, the UR agreements introduced new elements of S&D by providing for transitional time frames and technical assistance in the implementation of the various agreements introduced in the WTO. The basic reason underlying the extension of S&D treatment through these two new elements was simply that developing countries did not have the institutional capacity to implement the commitments demanded of

them in some of the new areas covered by the WTO. They would not have signed the UR agreements had they not been promised both additional time and technical assistance to build the necessary capacity.¹²

IV. The Conceptual Justification for Special and Differential Treatment

The legal texts of the agreements embodied in the WTO contain a very large number of provisions regarding differential and more favourable treatment of developing and least developed countries . And there are additional references to the Least Developed Countries, which for example, benefit from longer transition periods in the implementation of certain agreements such as TRIPS. Thus, while a lot has been made of the increasing participation of developing countries in the UR agreements on the same basis as other members, the UR agreements are replete with S&D provisions. (GATT, 1995). Some provisions are in the nature of exhortations whose implementation is difficult to evaluate; others, although also of a general nature, underpin programs such as the GSP; still others are very specific and relate to a particular aspect of developed or developing country policy.

There are several conceptual premises underlying the provision of S&D as it has emerged over time and as reflected in the WTO agreements. The fundamental one is that developing countries are intrinsically disadvantaged in their participation in international trade and therefore, any multilateral agreement involving them and developed countries must take into account of this intrinsic weakness in specifying their rights and responsibilities. A related premise, has been that the trade policies that would maximise sustainable development in developing countries are different from those in developed economies and hence that policy disciplines applying to the latter should not apply to the former. The final premise is that it is in the interest of developed countries to assist developing countries in their fuller integration and participation in the international trading system.

Based on these premises the provisions introduced into the WTO agreements to provide fall into two broad categories: (a) positive actions by developed country members or international institutions; (b) exceptions to the overall rules contained in the agreements that apply to developing countries and, sometimes, additional exceptions for the least developed countries (Michalopoulos, 1998).

¹² Participants in the final negotiations for establishing the WTO have indicated that there was a tacit understanding that transition periods in the implementation of some of these agreements were linked to transition periods in the implementation of the agreement on Textiles and Clothing.

A. Positive Steps to be Taken by Developed Countries

There are three kinds of actions that developed countries have agreed to take to support developing countries participation in international trade: (a) provide preferential access to their markets; (b) provide technical and other assistance to permit them to meet their WTO obligations and otherwise enhance the benefits developing countries derive from international trade; (c) implement the overall agreements in ways which are beneficial or least damaging to the interests of developing and least developed countries.

1. Preferential Market Access

As noted earlier, in recognition of the importance for developing countries to diversify their exports into manufacturing and the difficulties that they may face in breaking into international markets for such products, developed countries have provided tariff preferences to exports of manufactures from developing countries under the GSP and, within that context, for special treatment of the LDCs. As already discussed, the key issue regarding these programs is whether in practice they make a significant contribution in enhancing market access prospects for developing countries.

2. Technical and other Assistance

The WTO agreements contain numerous references to the desirability of developed country members and international institutions to provide technical assistance to developing and least developed countries. The main objective of such assistance is the strengthening of the institutional capacity of developing and least developed countries in way which would enable them to meet the obligations they have assumed under the agreements. The main areas in which technical assistance is envisaged include TBT, SPS, Customs Valuation, Pre-shipment Inspection, Dispute Settlement, TPR and TRIPS.¹³ In most cases, the relevant articles call for the assistance to be provided upon request by the developing country or Least Developed countries and on terms and conditions appropriate to the countries involved.

The conceptual underpinning of these provisions relates to the emerging analytical consensus that institutional constraints are of major significance in inhibiting the effective integration of poorer and least developed countries in the multilateral trading system. While it may be relatively easy to promulgate policies to liberalise trade, it is far more difficult to develop the capacity to take advantage of the

opportunities international trade provides. Weaknesses in the human and physical infrastructure and institutions related to international trade have been identifying as key impediments in developing countries capacity to benefit from international trade and technical assistance support by developed countries and international institutions (as well as longer transition periods, see below) have been recommended as means to address these problems.¹⁴ But a number of concerns have been raised regarding the high costs and affordability of implementing the UR agreements (Finger and Schuler, 1999) or whether technical assistance alone can deal with the heavy investment in both physical and human costs needed to build capacity in areas where developing countries have assumed WTO commitments.

Pursuant to the mandate provided by these articles and other decisions, such as the Decision on Measures in Favour of Least Developed Countries, a variety of technical assistance activities and programs are being provided by international organisations, in particular the WTO, UNCTAD and ITC and the World Bank. The main question which arises in this area of implementation of special and differential provisions, is the overall adequacy and effectiveness of the efforts of the WTO itself as well of WTO members and the international community in general, in providing technical and other assistance relative to the needs of developing countries and to the least developed.

3. Implementation of WTO Provisions in a Manner Favourable to Developing Country Members

The WTO agreements contain many references in the preambles as well as in the substantive provisions of the various texts committing members to implement the agreements in ways which take into account the interests of developing and least developed countries. These references are of two kinds: (a) some are of a general nature and are expressed in broad 'best efforts' terminology; (b) in a few cases there are more explicit provisions as to how developing countries are supposed to be treated more favourably or in ways which are least damaging to their interests.

Examples of general preambular statements include 'the need for positive efforts designed to ensure that developing countries and especially the least developed.. secure a share in the growth in international trade commensurate with the needs of their economic development', (Preamble of the Agreement for establishing

¹³ See *inter alia* SPS Article 9.1; TBT Article 11, 12.7; Implementation of GATT Article VII-- Article 20.3; Pre Shipment Inspection, Article 1.2; TRIPS Article 67; DSB Article 27.2; TPRM Section.

¹⁴See UNCTAD/WTO, 1996, for a discussion of the specific structural weaknesses in developing country trade which would justify differential treatment and policies.

the WTO); that 'in implementing their commitments on market access (in agriculture), developed country members would take fully into account the particular needs and conditions of developing country members by providing for a greater improvement of opportunities and terms of access for agricultural products of particular interest to these members', (Preamble of Agreement in Agriculture); that 'Members shall give particular attention to the provisions of this agreement (TBT) concerning developing country Members' rights and obligations ...' (Article 12.2); and the recognition 'that special regard must be given by developed country Members to the special situation of developing country Members when considering the application of antidumping measures', (Article 15).

In considering the implementation of these provisions in the WTO, a strong case can be made that they are not legally enforceable (Kessie, 2000). Nonetheless, there are serious questions as to whether developed countries have lived up to spirit of these commitments. For example there has been no concerted effort to provide preferential treatment to least developed countries and small exporters in the context of the agreement on textiles under articles 2.18 and 6.6. Similarly, there is no evidence that the provision regarding the use of constructive remedies before applying anti-dumping duties on imports from developing countries (article 15) has been employed. On the contrary, there is evidence that the proportion of total antidumping investigations and the imposition of 'definitive' antidumping measures against developing countries is much higher than the share of these countries in world exports (Michalopoulos, 1999b). And very few developed countries appear to have notified the WTO regarding the establishment of contact points to facilitate access of developing country service suppliers (article IV:2).

B. Differential Commitments and Obligations by Developing Countries

There are two fundamental ways in which developing and least developed countries have accepted differential obligations under the WTO agreements: (a) they enjoy freedom to undertake policies which limit access to their markets or provide support to domestic producers or exporters in ways which are not allowed to other members--all of which can be viewed as exemptions from WTO disciplines to take into account particular developing country circumstances; (b) they are provided with more time in meeting obligations or commitments under the agreements. In some cases, more favourable treatment involves a combination of (a) and (b).

1. Exemptions from Disciplines

The most general and fundamental way in which developing countries continue to be exempted from WTO disciplines regarding market access policies is the recognition of the principle of non-reciprocity in trade negotiations with developed countries to reduce or remove tariffs and other barriers to trade. This principle is recognised in GATT (1994) Article XXXVI and in the 'Enabling Clause'. Consistent with these provisions, many developing countries have not bound tariffs on their industrial products to the same extent as developed countries or have agreed to bind at substantially higher than applied levels. Similar provisions for non-reciprocity are included in GATS, Article XIX:2 which states that 'There shall be appropriate flexibility for individual developing countries Members for opening fewer sectors, liberalising fewer types of transactions, progressively extending market access in line with their development situation...'

2. Protection to Domestic Industry

A second way in which developing countries have greater flexibility in providing protection to domestic industry is through the provisions of GATT Article XVIII, which give developing countries the freedom to: (a) be able to grant the tariff protection required for the establishment of a particular industry and (b) apply quantitative restrictions for balance of payments purposes. Since the establishment of WTO there have been very few instances in which these provisions have been actually invoked.

The Agreement on Agriculture also contains a variety of measures which exempt developing countries and, to even a greater extent, least developed countries from disciplines and obligations that apply generally, and/or provides for longer timetables or more modest reductions in government support and subsidies than apply to other members. For example, investment subsidies or input subsidies to low income producers are exempted from the calculation of aggregate measures of support (AMS); reductions in export subsidies are either targeted to be lower or to occur over a longer period of time; and there are specific provisions regarding the operation of government stockholding programs aimed at enhancing food security as well as less demanding minimum access provisions regarding primary agricultural products that are the predominant staple in the traditional diet of a developing country. A number of developing countries have notified the WTO that they are implementing programs which take into account the specific exemptions contained in these provisions.

Similar exemptions from disciplines are to be found in the Agreement on Subsidies and Countervailing measures: the agreement permits countries with per capita income of less than \$1000 and least developed countries to maintain certain kinds of export subsidies which are otherwise prohibited; while for other developing countries the period over which subsidies can be provided is longer. Again a number of developing countries have invoked these provisions in notifying the WTO that they maintain export subsidy programs.

Finally, the agreements contain a number of other provisions which permit developing countries greater flexibility in meeting requirements: for example, the Enabling Clause calls for greater flexibility in determining adherence to the GATT provisions regarding the formation of free trade areas and customs unions among developing countries; the Agreement on TRIMS permits a temporary deviation for developing countries applying balance of payments measures; and the dispute settlement agreement provides for special procedures for least developed countries. Flexibility is also given to developing country Members to attach conditions to the establishment of foreign suppliers,¹⁵ introducing a new dimension to trade – and to special and differential treatment – within the context of the multilateral system.

Flexibility has thus emerged as the most widespread instrument of special and differential treatment. It could be argued that flexibility, as applied in the WTO, is not the negation of reciprocity. Commitments were agreed on a reciprocal basis, and flexibility applies to the differential application of such commitments. However, the Uruguay Round Agreements, by placing flexibility in the context of reciprocity, mark a significant shift in the handling of development issues within the multilateral trading system, away from the concept of non-reciprocity.

A fundamental question of implementation regarding the flexibility afforded to developing countries in pursuing different policies is whether the latitude permitted, including e.g. regarding bindings, results in policies which are more suitable to development. A more narrow issue is that developing countries' rights to differential treatment in certain instances, e.g. in subsidies and countervailing as well as in the Agreement on Agriculture, are conditioned on their notification of the existence of certain subsidies as of a particular time. While a number of developing countries have indeed availed themselves of these provisions

¹⁵ For instance The Annex on Telecommunications states provisions for placing reasonable conditions of access to public telecommunications transport networks and services consonant with the need to strengthen domestic

and provided such notifications, there is a general impression that many countries have not fully notified measures that they have been implementing and therefore may at some point in the future face challenges to these policies for failure to notify them.

3. Time Extensions

The final way in which special and differential treatment is provided in the WTO is through the provision of extension in the time frame over which certain obligations under the agreements are to be implemented by developing and least developed countries. Flexibility in transition times is provided in practically all the WTO Agreements, with the exception of the Agreement on Anti-Dumping Procedures and on Pre-shipment Inspection. Time extensions are provided for a variety of obligations assumed, especially under the TBT, SPS and TRIPS agreements. But there are also provisions in Subsidies and Countervailing as well as in the Agreement on Agriculture which permit developing countries to continue to subsidise exports for a period of time in a variety of ways prohibited for other members. In the majority of cases, flexibility takes the form of a slower rate of implementation of commitments agreed. For instance, the agreement on Subsidies and Countervailing measures allows for a transition period of 8 years, while the agreement on Trade-Related Intellectual Property allows for a transition period of 5 years. The Agreement on Trade-Related Investment Measures, allows developing country Members the flexibility to implement TRIMS temporarily in conjunction with Article XVIII: B and C. In the case of the Agreement on Textiles and Clothing, flexibility was to take the form of an accelerated phasing out of MFA quotas for developing countries, where the restrictions imposed by the developed Member accounted for less than 1.2 per cent of all restrictions imposed on the developing Member.

Provisions for flexibility in transition times allowed the conclusion of a number of agreement on a multilateral basis, such as Customs Valuation, Import Licensing, Subsidies and Safeguards, which had been dealt with only on a plurilateral basis prior to the Uruguay Round. Transition time related flexibility, like other types of flexibility discussed in the previous section, is thus a mechanism for providing special and differential treatment within the context of reciprocal and multilateral commitments.¹⁶ And a strong case can be made that these provisions regarding special and differential

telecommunications infrastructure and increase the participation (of the developing country member) in international trade.

¹⁶ However, developing countries seeking to accede to the WTO do not benefit automatically from transitional period provisions (Drabek and Laird, 1998)

treatment to developing countries—unlike the provisions calling for developed country actions, are legally enforceable (Kessie, 2000).

The fundamental justification for the extension of additional time to implement agreed measures relates to weaknesses in the institutional capacity of developing and least developed countries. It is assumed, that given additional time (as well as technical assistance, which is often also expected to be provided in these areas), developing and least developed countries will strengthen their institutions in ways that would enable them to implement the agreements. In the case of subsidies, the presumption is that additional time would permit countries to develop the institutions and policies to implement alternative means of support (for agriculture or exports in general) which are acceptable under the agreement.

The main issues that arise in the implementation of this aspect of special and differential treatment have to do with the realism of the time extensions called for in various aspects of the agreements in reference to the actual time and cost it takes to build the institutional capacity needed for full implementation of the obligations undertaken in the agreements. In some cases, the time limits for the extensions have already passed and there is little evidence that countries have made sufficient progress in institution building to permit them to implement their obligations fully. On the contrary, evidence gathered from the needs assessments undertaken in the context of implementing the Integrated Framework for Trade Related Technical Assistance for the Least Developed Countries suggests that very many institutional weaknesses remain. The problem may be caused in part by the absence to date of well co-ordinated technical assistance and other assistance programs. But, it is also possible that the transition periods provided reflect excessive optimism about how quickly institutional capacity in these areas can be built. Whatever the reason, one of the more urgent issues that should be the subject of a systematic review of implementation of special and differential treatment of the developing countries is the time limits set for full implementation of certain provisions of the agreements relative to the costs and time needed for building up the institutional capacity of countries to do so.

C. Special Measures Concerning LDCs

The Enabling Clause of 1979 provided the basis for special treatment of least developed countries (LDCs) 'in the context of any general or specific measures in favour of developing countries'. The Uruguay Round Agreements contain 17 provisions applicable specifically to LDC Members, in addition to those that are applicable to all developing Members. These include provisions for a more extended

transitional period than applicable to developing countries, in the TRIPS, TRIMS, and Sanitary and Phyto-sanitary Measures agreements. The agreements on Agriculture and on Subsidies provide for the exemption for LDCs from all reduction commitments, with the Subsidies Agreement allowing for an extended phasing out of subsidies once export competitiveness is established; and the Annex on Telecommunications to the GATS contains a provision seeking to encourage private suppliers in enabling the transfer of technology and training to LDC with a view to developing the Telecommunications sector.

A number of initiatives have also been adopted with regard to LDC Members since the establishment of the WTO. Thus, the 'Decision on Measures in Favour of Least Developed Countries' (1994) allows LDC Members to limit commitments and concessions to the extent compatible with their individual development, financial and trade needs, and which were consistent with administrative and institutional capabilities.

The High Level Meeting on LDCs held in October 1997 formalised the twin track approach regarding special and differential treatment of these countries in the WTO with one track emphasising their limited commitments to liberalisation and the other increased commitments by developed countries regarding market access and technical assistance. In that context, a number of WTO members announced measures for improved and preferential market access for LDCs. Regarding technical assistance, an 'Integrated Framework for Trade Related Technical Assistance to Support Least Developed Countries in their Trade Related Activities' was developed involving the IMF, ITC, UNCTAD, UNDP, the World Bank and the WTO. This Integrated Framework seeks to address shortcomings relating to technical and institutional capacity, particularly in the areas of trade policy, human resources, export supply capability, and regulatory regimes.

The key issues that need to be addressed in the context of the special provisions for the LDCs are much the same as with developing countries as a whole: are the commitments for preferential market access and treatment offered by developed countries meaningful relative to the constraints these countries face in integrating in the world trading system? Is the international technical assistance in support of these countries adequate and effective? And does the flexibility offered to these countries in meeting their WTO commitments contribute to their long term trade and development objectives?

V. Assessment

This review of the provisions in the GATT and WTO shows that, in the last fifty years, developing countries succeeded in establishing the principle that the trade rules applying to them and to the LDCs will be in many ways different from those which apply to other WTO members. While increasing their commitments regarding various aspects of their participation in the international trading system, they ensured that this participation is guided by the principle of special and differential treatment, which itself was amplified in a number of ways, especially regarding the provision of technical assistance and additional transitional periods for the implementation of their WTO commitments. These additional aspects of S&D treatment reflect the increasing recognition that the integration of developing countries into the international trading system is constrained by their own institutional weaknesses which will require additional time and technical assistance to overcome. In light of the even greater weaknesses in the capacities of LDCs, they have been given additional time and greater flexibility in the implementation of their commitments.

While the principle of special and differential treatment has been imbedded in many of the agreements that cover the rules of conduct of trade relations under the WTO, the practice of S&D continues to suffer from similar shortcomings to those in evidence at the beginning of the Uruguay Round. Three main problem areas have emerged: (a) the commitments of developed countries regarding preferential market access and other treatment are in practice much less important than they appear to be on paper; (b) there is increasing questioning of one of the fundamental premises of S&D, namely that less liberal trade policies are optimal for developing countries; and (c) the commitments aimed at addressing developing countries institutional constraints have been made without serious planning of how they will be implemented.

Market Access and other 'More Favourable' Treatment by Developed Countries. Regarding preferential market access, the preferences provided under the GSP have been further eroded by two developments. First, preference margins have been diminished as a consequence of the MFN reductions of tariffs under the UR. Second, additional regional arrangements providing deeper and more secure preferences have been put in place involving in some cases arrangements between developed and developing economies, such as NAFTA and the Mediterranean agreements with the EU and others among developing countries themselves (MERCOSUR) which make the preferences provided under the GSP less important. Indeed, in the EU, which has put in place the largest number of regional preferential arrangements, to be extended GSP preferences is tantamount to being in the lowest wrung in the EU preference pyramid

which includes practically all countries, except those to which MFN tariffs are extended such as the US, Japan, Australia and a few other developed countries.¹⁷

The other developed country commitments in the WTO agreements suffer from two shortcomings: either they are too broad and general in nature—such as those included in the many preambular statements—to be of any practical significance; or they are of the best efforts variety, such as for example those regarding the implementation of the anti-dumping agreement or in connection with the Agreement on Textiles and Clothing (ACT), which again means that they are not legally enforceable and developed countries can not be held strictly accountable for not implementing them. Indeed, as discussed earlier developed countries have continued to take proportionally more antidumping actions against developing countries than their share of international trade.

There are two fundamental problems, which unless addressed, will undermine any future efforts to provide developing countries with meaningful differential treatment by developed countries either in the context of market access or in the context of 'more favourable treatment'. The first is that developing countries' capacity to export and compete in international markets is vastly different, as their recent record of increased penetration in developed country markets has demonstrated (WTO, 1999a). Hence, their need for assistance in breaking into foreign markets is also very different. Yet, WTO rules regarding the treatment of developing countries by developed countries is in most cases identical.¹⁸ Singapore and Korea are supposed to be treated the same way as Ghana and Saint Lucia; Argentina and Brazil the same as the Maldives and Senegal.

The Enabling Clause provisions incorporate the principle of graduation as well as reference to developing country contributions to liberalisation according to their level of development. Developing countries have been treated differently by developed countries in the latter's unilateral implementation of GSP. There is very little economic reason to suggest that some of the more developed of the developing countries cannot compete in the products in which they have comparative advantage with developed countries. And there is very little political support for extending preferences to them. Indeed, protectionist interests in developed countries frequently succeed in discriminating against them on products in which they enjoy comparative advantage. But there is no formal differentiation imbedded in the WTO agreements. Leaving the definition to the individual choices of developed countries invites the introduction of extraneous

¹⁷ For a recent review see Ongulgo, 1999.

¹⁸ There are two sets of exceptions: The LDCs are treated differently as a group; and in subsidies a special per capita income cut off has been established.

political considerations in the determination of which countries get which preferences and how much. Unless developing countries accept some type of differentiation in their treatment beyond that involved in LDCs, there is very little prospect that meaningful commitments favouring all developing countries on a general basis can be implemented in the WTO context. But this poses tremendous political difficulties in the developing countries themselves. Developing countries find it politically easier to pretend that they all should be treated the same; and developed countries pretend to provide more favourable treatment to all developing countries, but in practice primarily do so in the context of special regional arrangements—not as part of the GSP, and only under specially circumscribed conditions, which they define.

There is one precedent for differentiation on a per capita income basis incorporated in the export subsidies agreement (see above). Developing countries attempted to expand this definition to include all Lower Middle Income Countries in the most recent Seattle Third WTO Ministerial. From the development standpoint there is little justification for providing lower income developing countries or the LDCs with greater flexibility to subsidise exports: given the budgetary constraints these countries face, it could be argued that export subsidies may result in a very bad allocation of scarce revenues. But the principle of using a per capita income cut-off point is of importance and could be pursued in other, more appropriate aspects of S&D treatment.

Also, in the preparation of the recent Ministerial, there were suggestions, especially by the World Bank and the IMF that improved market access benefits being considered for the LDCs be extended to countries eligible under the HIPIC debt reduction initiative. These countries arguably had as much need of these benefits as LDCs.

Both of these initiatives came to naught with the failure of the Ministerial. But the failure of these efforts and others of a similar nature also underscore a basic problem in the developed countries response to S&D proposals which involve improved market access for developing countries: they do so, not so much by reference to whether a particular proposal has developmental merit but, on the basis of the potential 'cost' they will have to face in terms additional imports from developing countries. Thus, they are prepared to accept export subsidies from LDCs almost indefinitely, as such subsidies may not cause serious problems to their own domestic industries, not because it makes sense for LDCs to promote their exports through budget subsidies.

The other problem is the one of coherence. Developed countries have had serious difficulties in including trade assistance measures, even to developing countries that truly deserve them, as part of the overall

measures of assistance to developing countries, consistent with the basic premise under which S&D treatment is supposed to be extended. Of course the problem is compounded when the preferential market access or other preferential treatment is supposed to be extended indiscriminately and include even advanced developing economies whose capacity to compete in international markets is not in doubt.

Technical Assistance. The bulk of the effort in technical assistance has fallen on international organisations, although some bilateral donors have active programs as well. In the early 1990's , assistance in the trade field declined significantly from some donor agencies, e.g. UNDP. In the case of the World Bank, the focus on trade development in general declined by comparison to the late 1980's and early 1990's. But the Bank in the summer of 1999 issued a statement urging the 'mainstreaming' of trade assistance in all its operations (World Bank, 1999a). The WTO on the other hand, has increased its technical co-operation activities. But the bulk of the financing for these activities, perhaps as much as 90% in any given year, is funded by trust funds provided by two-three bilateral donors, while the WTO itself typically allocates for technical co-operation activities less than one per cent of its total annual budget, amounting to less than half million US dollars.

A systematic review of the assistance efforts of the international community in support of trade development in developing countries is beyond the scope of this paper. Some of the issues arising in the context of assistance of LDCs however, are worth noting not only because the LDCs face the most acute problems of effective participation in world trade WTO are most acute, but also because of their wider applicability to other low income developing countries.

In order to help address some of the problems faced by the Least Developed Countries, the Meeting adopted an Integrated Framework (IF) for trade related technical assistance to support LDCs. The Framework envisages the preparation of needs assessments for technical assistance by the LDCs themselves which are then discussed at Roundtables with the six agencies involved in the effort (IMF, ITC, UNDP, UNCTAD, World Bank and WTO) plus other interested donors, in order to develop an integrated program of technical assistance activities which focus primarily on institution building. Progress in implementing the Framework has been slow, for a variety of reasons. According to a recent report (WTO, 2000), developing countries expect the process to result both in improved delivery of assistance as well as increased amounts of funding, while the donors focus on the efficiency gains and synergies resulting from better co-ordination. Difficulties in co-ordination both within the recipients and among the agencies have also emerged; and the very problems of institutional weaknesses in LDCs that the initiative is designed to address appear to have

contributed to implementation delays. A review of the IF by the six international agencies concerned is scheduled for the first half of 2000.

Beyond the Integrated Framework, there are several other issues linked to assistance: (a) problems of the LDCs are shared by other low income developing countries, and the differences are primarily a matter of degree.; (b) helping LDCs and other low income countries strengthen their institutional capacity to even permit them to meet their WTO obligations will require not only technical assistance, but substantial amounts of financial assistance as well as the costs for implementing WTO agreements are very substantial (Finger and Schuler, 1999); (c) the commitments to technical assistance made in the WTO by developed country members are neither concrete nor specific, and hence they can not be questioned as to whether they have been met.

Flexibility and Reciprocity. Regarding the matter of flexibility in the implementation of WTO commitments, the 1990's have witnessed a growing body of analytical and empirical work which suggests that the very exercise by the developing countries of some of their rights under the various provisions that exempt them from WTO disciplines, has had negative effects on their trade and development prospects.¹⁹ As in the 1980's there are two distinct lines of inquiry which reach this conclusion: the first suggests that developing countries by not participating in the exchange of reciprocal reductions in trade barriers have missed the opportunity of gaining reductions in the trade barriers in developed countries on products of specific export interest to them-- as evidenced by the fact that tariffs of developed countries on manufactures of special interest to the developing countries are higher than average (Martin & Winters, 1996; Hertel & Martin 1999).

The second line of thinking that has evolved and gained increasing acceptance attacks the very premise on which exceptions from WTO disciplines is based, namely that higher levels of protection and subsidisation of exports are conducive to development. According to this line of thinking, the permissiveness of WTO provisions has enabled developing countries to maintain higher levels of domestic protection. But this protection has introduced distortions in domestic resource allocation, encouraged rent seeking and waste and adversely affected growth in productivity and sustainable development. Similarly, that balance of payments problems are best addressed through macroeconomic policy, including exchange rate adjustments which does not have the adverse effects on resource allocation and productivity created by protection. And, export subsidies-- often used to offset the

¹⁹See Finger and Winters (1997); Srinivasan (1998).

disincentives of protection --are a drain to the budget, and hence are not affordable, and can not be relied upon to provide sustainable export growth. These analyses depend both on theoretical arguments and on evidence that suggests that countries with more open economies and lower levels of protection have succeeded in attaining higher rates of export and GNP growth.²⁰

In a similar vein, other analyses suggest that the developing countries that would benefit the most from the Uruguay Round are those that have reduced their barriers the most, partly because of improved market access opportunities through the exchange of reciprocal reduction of barriers and partly because of the positive effects of their own lower protection on their economies. The broad conclusion that is drawn from these analyses is that greater discipline in the context of the WTO, which would lead developing countries to adopt policies that would lower protection, would tend to result in greater benefits to their trade and development.²¹

The findings linking lower protection to faster development continue to be controversial, especially regarding the direction of causality (Rodrik, 1992, Edwards, 1993). Also, there have been clear concerns that trade liberalisation needs to be accompanied by efforts to strengthen domestic factor markets as well as the establishment of appropriate safety nets to mitigate its short term adjustment costs (Stiglitz, 1999). Moreover, where markets are not functioning properly—for example in rural areas of low income countries, appropriate government interventions and supports may be needed to stimulate agricultural production and rural incomes— which would have implications for example for the maintenance of appropriate S&D provisions in the Agreement on Agriculture (Michalopoulos, 1999b).²²

Notwithstanding these modifications, there is still a consensus that the establishment of market based policies and systems are critical for development and that government intervention is only justified when there is market failure. But the optimal government interventions in such circumstances typically do not include higher protection through restrictive trade or exchange measures or export subsidisation, as alternative government measures are usually available which are less distortive. As a consequence, developing countries have been liberalising their trade regimes, even faster than their commitments under

²⁰For a major review of this literature see Edwards, 1993; also Dean et.al. 1994; Dollar, 1992; Sachs, 1997; Drabek and Laird 1998; Papageorgiou et al (1991) summarises the experiences of another group of studies of developing countries done in the 1980's under the auspices of the World Bank and comes to similar conclusions.

²¹Finger and Winters, (1997).

²² In a recent submission in the context of the preparations for the WTO Third Ministerial, Venezuela asked for 'policy spaces' involving market oriented "supply policies" to be imbedded in the WTO rules; but the proposal was not specific regarding the policies advocated (WT/GC/W/279).

the UR would warrant. This is manifested by the wide divergence between currently applied and bound tariffs and in the reduction on reliance on export subsidies as a vehicle for export promotion (Michalopoulos 1999b).

Ceiling bindings introduce flexibility in country trade policy, but pose two sets of problems: first, domestically, in the country imposing them, they are an invitation to particular interest groups to exert pressure on governments to increase protection. Second, for foreign suppliers they reduce predictability and increase uncertainty in terms of the market access barriers they will be facing. This in turn impedes the activity of private agents, especially where investments are marked by a degree of irreversibility, and could result in reduced inflows of foreign financing. At the same time, their widespread existence, undermines developing country arguments that their development requires intrinsically higher levels of protection than those agreed in the WTO. Perhaps the greatest usefulness of ceiling bindings at present is that they can be bargained away in a new Round of negotiations on non-agricultural tariffs in exchange for developed country concessions that would improve developing country market access (Michalopoulos 1999a).

Similarly, with export subsidies; experience in a number of countries suggests that they are frequently needed to offset incentives to sell to the domestic market created through protection. But when protection is relatively low and the exchange rate not overvalued, subsidies tend to be an expensive way of promoting exports whose main impact is to provide additional profits to established exporters.

In sum, there is little analytical and empirical justification that trade policies in developed and developing countries should differ in principle; and hence that there should be a differential treatment of developing countries regarding trade policy.

There is however, increasing recognition that institutions in developing countries, including those that are supposed to implement trade policies, are weaker and need to be strengthened. In addition, supply side constraints create important impediments to participate effectively in international trade. The most extensive evidence regarding trade related institutional inadequacies and supply side constraints have been developed in the context of LDCs, on which the international community has been focusing increasing attention following the WTO agreements.

Transition Periods. Many developing countries, including but not limited to LDCs, have experienced difficulties in implementing WTO agreements on safeguards, subsidies and countervailing measures, Anti-Dumping, Technical Barriers to Trade, Sanitary and Phytosanitary Measures, and TRIPS. Developing countries facing fiscal constraints often have few resources to direct towards the areas of public administration responsible for overseeing and co-ordinating the implementation of WTO agreements, which are quite costly. These difficulties were supposed to be overcome through technical assistance and longer transition periods. But as with technical assistance or offers of many other elements of S&D, the transition time periods appear to have been negotiated without much involvement of developing countries officials familiar with how long it takes to build institutional capacity where it was inadequate or totally lacking. A very careful look at these transition periods is needed in all the areas in which they have been extended on the grounds of institutional weakness.

A number of these transition periods have expired at 1999 while many developing countries have been suggesting that they are experiencing difficulties in establishing the institutions needed for their implementation. Developed countries have been responding in the WTO that they are prepared to consider waivers but on a case by case basis. This on the face of it should be unobjectionable, as indeed different developing countries have differing institutional capacities. However, if each of the, let us say, eighty or more developing countries which may truly have a problem in meeting the timetable of its commitments were to have its case considered individually, this would tie up the proceedings of the WTO for months. At the same time, blanket extensions for all developing countries including the most advanced which may not need them, would also not appear appropriate. Clearly a different approach is needed in this and other aspects of S&D where not all developing countries are treated the same, but which at the same time does not result in bogging down the work of the whole organisation.

Least Developed Countries. The international community has made a special effort to address the problems faced by the LDCs. The Integrated Framework initiative has been discussed above. LDCs are

exempted completely from disciplines or are provided with more extended transition periods to implement agreements. Moreover, developed countries (and other developing countries) have made additional preferential market-access commitments for LDCs. Overall, it is estimated that between 80 to 90 per cent of the value of LDC merchandise exports of LDCs have duty free access in their main developed country markets. This implies that tariff measures do not pose a significant problem on the existing structure of LDC exports. At the Third WTO Ministerial, there were indications that developed countries may be prepared to go further in extending voluntary GSP to these countries, perhaps even offering a commitment to duty free access to all LDC exports as part of new Round. Such commitments are relatively easy to make in political economy terms, as LDCs account for very small fractions of developed country imports in most product categories.²³ As a consequence LDCs may not have to 'offer' any new liberalising commitments, in order to obtain improved market access.

On the other hand, an evaluation of the LDC needs assessments prepared under the Integrated Framework suggests, that the main constraints to LDC export expansion derive primarily not from market access problems but from weaknesses in institutional capacities as well as other supply side factors (WTO, 1998). In particular, these include (i) infrastructure deficiencies such as erratic power supply, underdeveloped telecommunication networks, and the poor condition of terrestrial, sea and air transport links; (ii) weaknesses in technological capacity; ²⁴ (iii) underdeveloped financial and banking systems; (iv) shortfalls in a broad range skills and institutional capacity needed to participate in international trade as well as to implement effective trade policies; (v) deficient regulatory regimes that are unable to cope with weakness in the operations of markets.²⁵

Thus, the key issues for S&D in the LDCs is how to ensure concrete and effective support for trade-related capacity building measures in practically all areas linked to international trade. At the same time, it is important for LDCs to recognise some of the implications and pitfalls of past developing country experience with flexibility in the application of WTO rules and disciplines: it could be argued for example, that existing S&D provisions permit LDCs the most freedom of policy choice possible, in areas such as

²³ Even so, some developed countries balked at making such a commitment, apparently because of concerns about a protectionist backlash in the textile sector.

²⁴ The GATS attempted to address the question of deficiencies in technology by providing, through Article IV:1, for the strengthening of the domestic service capacity efficiency and competitiveness by amongst other things the provision of access to technology on a commercial basis, and improvement of access to distribution channels and networks. LDC Members maintain that this provision has not been sufficiently implemented.

²⁵ Based on responses to needs assessment questionnaire, as recorded in WTO, 1998.

subsidies, that they can least afford. Tighter WTO disciplines in some policy areas may be helpful to LDC governments that wish to introduce and gain domestic consensus for trade policy reform.

VI. Conclusions and Priorities for the Future

This analysis and assessment of the S&D provisions in the WTO agreements suggests the need for a fundamental reorientation of priorities both by developed and developing country members of the WTO.

There are two major conclusions that arise from the analysis: first, there is increasing recognition that institutions in many developing countries, including those that are supposed to implement trade policies and bear the costs of adjustment to globalisation, are weak and inadequate to cope with WTO obligations. In addition, supply side constraints create important impediments to many developing countries' effective integration in international trade. The most extensive evidence regarding trade related institutional inadequacies and constraints has been developed in the context of LDCs; but other low income developing countries suffer from similar inadequacies. And this conclusion has major implications about the need to continue and emphasise certain dimensions of S&D. But there is much less analytical and empirical justification that trade policies in developed and developing countries should differ in principle.

The second major conclusion is that the GATT/WTO agreements have fostered a 'pretend' culture regarding S&D. Developing countries find it politically easier to pretend that they all should be treated the same, with the exception of the LDCs; and developed countries pretend to provide meaningful S&D but in practice their commitments are not legally enforceable either on market access, or on preferential treatment or on technical assistance. Developing countries' capacity to export and compete in international markets is vastly different, as their recent record of increased penetration in developed country markets has demonstrated. Hence their need for preferential treatment or assistance in breaking into foreign markets as well as their institutional capacities are vastly different. Yet with the exception of LDCs, treatment of developing countries by developed countries under the WTO is not systematically differentiated and there is no general and effective graduation policy.

Developing countries have been treated differently by developed countries in the latter's unilateral implementation of GSP. Leaving the definition to the individual choices of developed countries invites the introduction of extraneous considerations in the determination of which countries get which preferences and how much. Unless developing countries accept some type of differentiation in their

treatment beyond that involved in LDCs, as well as some type of graduation, there is very little prospect that meaningful, legally enforceable commitments favouring all developing countries on a general basis can be implemented in the WTO context.

The overall objective of the international community should be a more meaningful and real provision of S&D treatment through appropriate instruments to countries that truly need it. The conceptual underpinnings of the reorientation should be provided by the evolving understanding of the links between trade and development and the constraints faced by different developing countries in their effective integration in the international trading system. This had been done in the past in both the GATT and the WTO. It needs to continue in the future. The main elements of the reorientation of priorities are as follows:

1. Greater emphasis on instruments to strengthen developing country institutional capacity. The main differences between developed and developing countries are not in the trade policies they should pursue but in the capacities of their institutions to pursue them. This means that S&D provisions related to technical and financial assistance as well as longer transition periods (which are linked to institutional reform and capacity building) should be emphasised.
2. Explicit legally binding commitments regarding technical and financial assistance need to be obtained, especially as it relates to capacity to implement commitments related to WTO agreements. Legal obligations developing countries have assumed in the WTO agreements need to be balanced by legal commitments of the developed countries to fund the assistance needed to implement them. One way of doing this is through a large expansion of the WTO budget for technical co-operation.
3. All the transition periods in the WTO Agreements linked to developing country institutional capacity weaknesses need to be re-examined. A number of these transition periods have already expired and need to be urgently addressed. The re-examination should be done in terms of broad groups of developing countries. Both developed and developing countries need to move from their present positions: the developing countries should abandon the myth that all of them are equally incapable of meeting WTO commitments; while the developed countries should abandon the request for case by case determination. One possibility would be to extend transition periods for all low and lower middle income countries (based on the World Bank definition) while considering the rest on a case by case basis. The review of the transition periods needed should also include panels of experts from governments and appropriate international institutions knowledgeable of capacity building efforts and requirements in the respective areas.

4. Less emphasis should be placed on S&D provisions which provide developing countries with greater flexibility to protect their domestic markets or subsidise their exports of goods and services This does not mean that markets in developing countries are assumed to work or that more liberal trade policies have no costs. Rather that government interventions, other than through border trade measures, are usually more suitable and available; and that 'flexibility' in trade policy has both costs and benefits. It also implies e.g. that developing countries should bind industrial tariffs close to their applied levels—as part of a new round of negotiations; but they should be very careful in maintaining flexibility of support to agriculture, many of which previously penalised it.

5. A sharper differentiation of developing countries There are many problems of institutional capacity which are common to LDCs and other low income developing countries with limited participation in international trade, but which are not faced by more advanced developing countries. Per capita income and/or share of world trade indicators need to be introduced to expand the focus of assistance to capacity building as well as 'more favourable treatment' and market access by developed countries to these developing countries, but which would exclude more advanced developing countries. Without a graduation policy which would permit a narrower definition of which countries should be eligible for S&D, developed countries would: (a) continue to make commitments to developing countries in general which are not concrete; (b) make concrete commitments only to LDCs which have a very small share of world trade; (c) rely on their own criteria—frequently non-transparent and politically motivated—in the determination of which countries to provide more favourable treatment or market access.

Differentiation and graduation will be difficult for developing countries to accept. Substantial differentiation however, exists regarding financial flows from all IFIs and even from the UNDP. In the case of the World Bank, some developing countries get no assistance at all, others are only eligible for loans on hard terms others for soft loans, and still others for a mix.²⁶ Why can the principle which has been accepted without serious difficulty on issues of finance not be acceptable regarding trade? It may be difficult to do, but an effort needs to be made.

²⁶ The principle has also been accepted in the establishment of the 'Advisory Centre on WTO Law', an international institution established in Geneva, Switzerland to assist developing countries pursue cases in the context of the WTO dispute settlement mechanism.

6. Avoid efforts aimed at 'Permanently Binding' preferential margins of GSP or similar arrangements.

Preference margins, including in agriculture where protection is currently very high, can be expected to decline over time as tariffs are liberalised on an MFN basis; and no S&D provisions should inhibit this liberalisation. One way to help developing countries that truly need assistance in breaking into foreign

markets is to exclude from giving preferences to developing countries which do not need it; also, by helping them strengthen their institutional capacity and reduce supply side constraints.

7. Promote transparency in the provision of S&D by mandating a regular review of S&D implementation.

This could be done through a systematic annual review (Whalley, 1999) which reviews donor assistance commitments and other measures taken in favour of developing countries. Alternative, a similar systematic review could be undertaken on a country by country basis in the context of the TPR mechanism.

8. Promote Greater Policy Coherence Between S&D provisions in the WTO and other International Initiatives and Organisations.

While the WTO has established co-operative relations with many other international organisations, including the UN organisations and the IFIs, there is a need for greater policy coherence at the level of the individual Members and for particular initiatives. One example of such a need is to relate the international initiative on debt reduction for highly indebted low income countries (HIPIC) to market access initiatives for the (LDCs). Arguably the countries on the HIPIC list have as much need to improve their market access as the LDCs. The two lists of countries overlap to a considerable extent and they should be combined. At the same time, trade related issues and support for trade related infrastructure should be more effectively 'mainstreamed' in the operations of the World Bank and the regional development banks, especially in Africa and other low income countries which face institutional capacity constraints to more effective integration in the world economy.

REFERENCES

- Bhagwati, J. 1978. *Anatomy and Consequences of Exchange Control Regimes*, National Bureau of Economic Research, New York;
- Dean, J., S. Desai, and J. Riedel, 1994. "Trade Policy Reform in Developing Countries since 1985: A Review of the Evidence", *World Bank Discussion Paper No. 267*, Washington, 1994;
- Dollar, D. (1992) "Outward-Oriented Developing Countries Really Do Grow More Rapidly: Evidence from 95 LDCs, 1976-1985", *Economic Development and Cultural Change*, Vol.40, pp.523-44;
- Dornbusch, R., 1992 "The Case for Trade Liberalisation in Developing Countries", *The Journal of Economic Perspectives*, Vol. 6, No.1, 1992;
- Drabek, Z and S. Laird.1998. "The New Liberalism: Trade Policy Developments in Emerging Markets", *Journal of World Trade*, Vol.32(5);
- Edwards, S. 1993. "Openness, Trade Liberalisation and Growth in Developing Countries", *Journal Of Economic Literature* Vol 31, pp.1358-1393;
- Finger, M. J. and L. A. Winters.1998. "What Can the WTO Do for Developing Countries" in A.O. Krueger Ed. *The WTO as an International Organisation*, University of Chicago Press, Chicago;
- Finger, M.J. and P. Schuler, "The Implementation of Uruguay Round Commitments: The Development Challenge" Policy Research Working Paper #2000+, World Bank, Washington DC;
- GATT.1948. *Preamble to the Establishment of GATT*, Geneva.
- GATT.1954. *Basic Instruments and Documents (BISD)* 3rd Supplement, Geneva.
- GATT.1955. *Report of the Review Working Party on Quantitative Restrictions*, (L/332/Rev), Geneva.
- GATT.1958. *Trends in International Trade*, Geneva.
- GATT.1964. *BISD* 12th Supplement, Geneva.
- GATT.1972. *BISD* 18th Supplement, Geneva.
- GATT. 1979. *The Tokyo Round of Multilateral Trade Negotiations*, Report of the Director General, Geneva.

GATT. 1980. *BISD 26th Supplement*, Geneva.

GATT. 1984. "Structural adjustment and trade policy", *Report by the Working Party (L/5568)*, Geneva.

GATT. 1994. "A Description of the Provisions Relating to Developing Countries in the Uruguay Round Agreements, Legal Instruments and Ministerial Decisions" COM.TD/510, Geneva.

Harrison G, et.al. 1996. "Quantifying the Uruguay Round" in W. Martin and A. Winters Eds. *The Uruguay Round and the Developing Countries*, World Bank, Washington DC.

Hertel T. and W.Martin. 1999. "Developing Countries Interests in Liberalising Manufactures Trade", CEPR Workshop, London, February, 19-20, 1999.

Hudec, R.E. 1987. *Developing Countries in the GATT Legal System*, Gower Publishing Co. Hampshire.

International Task Force on Commodity Risk Management. 1999. "A proposal for a Market Based Approach", Washington DC.

Karsenty G. and S. Laird. 1987. "The Generalized System of Preferences: A Quantitative Assessment of the Direct Trade Effects and of Policy Options", UNCTAD Discussion Paper #18, Geneva.

Kessie, E. 2000. "Enforceability of the Legal Provisions Relating to Special and Differential Treatment under the WTO Agreements", paper presented at WTO Seminar on Special and Differential Treatment of Developing Countries, Geneva March 7.

Kemper, R. 1980, "The Tokyo Round: Results and Implications for Developing Countries", *World Bank Staff Working Paper*, No.372, Washington, DC.

Krueger, A.O. 1974. "The political economy of the rent seeking society", *American Economic Review*, Vol. 64, No. 3, June 1974.

Krueger, A.O. 1978. *Liberalisation Attempts and Consequences*, National Bureau of Economic Research, New York

Krueger A. O. and Michalopoulos, C. 1985. "Developing-country trade policies and the international economic system", in E. Preeg (ed) *Hard Bargaining Ahead: US Trade Policy and Developing Countries*, Overseas Development Council, Washington DC.

Krueger A. O. et al. 1988 "Agricultural incentives in developing countries: Measuring the effects of sectoral and economy-wide policies", in *World Bank Economic Review*, Vol. 2, No. 7,

- Leutwiller, F. et al.1985. *Trade policies for a better future: Proposals for action*, GATT, Geneva.
- Little, I. T.Scitovsky and M.Scott, 1970, *Industry and Trade in Some Developing Countries*, Oxford University Press, London.
- Martin, W. and A. Winters. 1996. The Uruguay Round and the Developing Countries, World Bank.
- Michalopoulos, C. 1985 "Non Tariff Measures", *Trade and Development*, Development Committee, #6, Washington DC.
- Michalopoulos, C. 1998. "Differential and More Favourable Treatment of Developing Countries in The WTO: A Conceptual Classification" (processed) WTO, Geneva.
- Michalopoulos, C. 1999a. "Developing Country Strategies for the Millennium Round", *Journal of World Trade*, Vol.33(5) .
- Michalopoulos, C. 1999b. "Trade Policy and Market Access Issues for Developing Countries", Policy Research Working Paper #2214, World Bank, Washington DC.
- Onguglo, B.P. 1999. "Developing Countries and Trade Preferences", in M.R. Mendoza, P.Low and B.
- Kotschwar Eds. *Trade Rules in The Making*, Brookings, Washington DC.
- Papageorgiou, D., M. Michaely, A. Choksi. 1991. *Liberalising Foreign Trade, Vol. 7, Lessons of Experience in the Developing World*, World Bank, Washington DC.
- Prebisch, R. 1950. *The Economic Development of Latin America and Its Principal Problems*, UN ECLA, Santiago.
- Rodrik, D, 1992. The Limits of Trade Policy Reform in Developing Countries", *The Journal Of Economic Perspectives*, Vol. 6 (1).
- Sachs, J.D. and A. M. Warner. 1997. "Sources of Slow Growth in African Economies", *Journal of African Economies*, Vol. 6, pp.335-76.
- Sapsford, D. and V.N. Balasubramanyam.1999."Trend and Volatility in the Net Barter Terms of Trade", *Journal of International Development*, Vol.11(6).
- Singer, H. 1950. "The Distribution of Gains between Investing and Borrowing Countries", *American Economic Review, Papers and Proceedings*, Vol.11, pp.473-485.
- Srinivasan, T.N. 1998.*Developing Countries and the Multilateral Trading System*, Westview Press, Oxford.

Stiglitz, J.E. 1999. "Two Principles for the Next Round, Or How to Bring Developing Countries in from the Cold" WTO Speech, Geneva, Sept.21.

UNCTAD. 1968. *The Kennedy Round Estimated Effects on Trade Barriers*, Geneva.

UNCTAD. 1980. *Assessment of the Results of the Multilateral Trade Negotiations*

UNCTAD/WTO. 1996. *Strengthening the Participation of Developing Countries in World Trade and The Multilateral Trading System*, TD/375, Geneva.

Whalley, J. 1999. " Special and Differential Treatment in the Millennium Round", *World Economy*.

World Bank. 1999a. "World Bank Support for Developing Countries on International Trade Issues", Development Committee, Washington DC, September.

World Bank. 1999b. *World Development Indicators*, Washington DC.

WTO.1998. *Market Access for Exports of Goods and Services of Least Developed Countries*, WT/COMTD/LDC/W/11/Rev.1

WTO.1999a. "Developing Countries and the Multilateral Trading System: Past and Present" Development Division, Background Document prepared for the High Level Symposium on Trade and Development, Geneva, 17-18 March.

WT0.1999b. "Special and Differential Treatment and the Spaces for Policies in the WTO", *Communication by Venezuela*, WT/GC/W/279, 29 July.

WTO. 2000. "Integrated Framework for Trade-Related Assistance to LDCs: The Process to Date, Concerns and Suggested Improvements" WT/COMTD/LDC/W/18.

Policy Research Working Paper Series

	Title	Author	Date	Contact for paper
WPS2365	Leading Indicator Project: Lithuania	Stephen S. Everhart Robert Duval-Hernandez	June 2000	M. Geller 85155
WPS2366	Fiscal Constraints, Collection Costs, and Trade Policies	Keiko Kubota	June 2000	L. Tabada 36896
WPS2367	Gender, Poverty, and Nonfarm Employment in Ghana and Uganda	Constance Newman Sudharshan Canagarajan	June 2000	M. Clarke 31752
WPS2368	Seeds of Corruption: Do Market Institutions Matter?	Harry G. Broadman Francesca Racanatini	June 2000	S. Craig 33160
WPS2369	How the Proposed Basel Guidelines On Rating-Agency Assessments Would Affect Developing Countries	Giovanni Ferri Li-Gang Liu Giovanni Majnoni	June 2000	E. Mekhova 85984
WPS2370	A New Model for Market-Based Regulation of Subnational Borrowing: The Mexican Approach	Marcelo Giugale Adam Korobow Steven Webb	June 2000	M. Geller 85155
WPS2371	Shock Persistence and the Choice of Foreign Exchange Regime: An Empirical Note from Mexico	Marcelo Giugale Adam Korobow	June 2000	M. Geller 85155
WPS2372	Financial Openness, Democracy, and Redistributive Policy	Mansoor Dailami	June 2000	W. Nedrow 31585
WPS2373	Reciprocity across Modes of Supply in the World Trade Organization: A Negotiating Formula	Aaditya Mattoo Marcelo Olarreaga	June 2000	L. Tabada 36896
WPS2374	Should Credit Be Given for Autonomous Liberalization in Multilateral Trade Negotiations?	Aaditya Mattoo Marcelo Olarreaga	June 2000	L. Tabada 36896
WPS2375	Asset Distribution, Inequality, and Growth	Klaus Deininger Pedro Olinto	June 2000	M. Fernandez 33766
WPS2376	The Effect of Early Childhood Development Programs on Women's Labor Force Participation and Older Children's Schooling in Kenya	Michael M. Lokshin Elena Glinskaya Marito Garcia	June 2000	P. Sader 33902
WPS2377	Reforming the Water Supply in Abidjan, Côte d'Ivoire: Mild Reform in a Turbulent Environment	Claude Ménard George Clarke	June 2000	H. Sladovich 37698

Policy Research Working Paper Series

	Title	Author	Date	Contact for paper
WPS2378	Disintegration and Trade Flows: Evidence from the Former Soviet Union	Simeon Djankov Caroline Freund	June 2000	R. Vo 33722
WPS2379	India and the Multilateral Trading System after Seattle: Toward a Proactive Role	Aaditya Mattoo Arvind Subramanian	June 2000	L. Tabada 36896
WPS2380	Trade Policies for Electronic Commerce	Aaditya Mattoo Ludger Schuknecht	June 2000	L. Tabada 36896
WPS2381	Savings and the Terms of Trade under Borrowing Constraints	Pierre-Richard Agénor Joshua Aizenman	June 2000	T. Loftus 36317
WPS2382	Impediments to the Development and Efficiency of Financial Intermediation in Brazil	Thorsten Beck	June 2000	E. Mekhova 85984
WPS2383	New Firm Formation and Industry Growth: Does Having a Market- or Bank-Based System Matter?	Thorsten Beck Ross Levine	June 2000	E. Mekhova 85984
WPS2384	Are Cost Models Useful for Telecoms Regulators in Developing Countries?	Daniel A. Benitez Antonio Estache D. Mark Kennet Christian A. Ruzzier	July 2000	G. Chenet-Smith 36370
WPS2385	The Rise, the Fall, and ... the Emerging Recovery of Project Finance in Transport	Antonio Estache John Strong	July 2000	G. Chenet-Smith 36370
WPS2386	Regulators and the Poor: Lessons from the United Kingdom	Richard Green	July 2000	G. Chenet-Smith 36370
WPS2387	The Long and Winding Path to Private Financing and Regulation of Toll Roads	Antonio Estache Manuel Romero John Strong	July 2000	G. Chenet-Smith 36370